

Message Text

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ACTION DLOS-06

INFO OCT-01 NEA-10 ISO-00 ACDA-07 AGR-05 AID-05 CEA-01

CEQ-01 CG-00 CIAE-00 CIEP-01 COME-00 DODE-00 DOTE-00

EB-07 EPA-01 ERDA-05 FEAE-00 FMC-01 TRSE-00 H-02

INR-07 INT-05 IO-13 JUSE-00 L-03 NSAE-00 NSC-05

NSF-01 OES-06 OMB-01 PA-01 PM-04 PRS-01 SP-02 SS-15

USIA-06 SAL-01 /124 W

----- 005273

R 140637Z JUL 76

FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC 7127

C O N F I D E N T I A L SECTION 1 OF 2 NEW DELHI 10309

E.O. 11652: GDS

TAHS: PLOS, IN

SUBJECT: CONSULTATION WITH INDIAN OFFICIALS

SUMMARY: U. S. LOS TEAM HEADED BY AMBASSADOR LEARSON MET FOR SEVERAL HOURS WITH DR. S. P. JAGOTA, LEADING INDIAN LOS EXPERT, AND OTHER MEMBERS OF INDIAN LOS DELEGATION. TEAM ALSO CALLED ON FOREIGN MINISTER CHAVAN, FOERIGN SECRETARY MEHTA, MINISTER OF LAW GOKHALE, AND MINISTER OF MINES AND STEEL YADAV. END SUMMARY.

1. TEAM MET FOR HOUR AND A HALF WITH MINISTER GOKHALE AND DISCUSSED MARINE SCIENTIFIC RESEARCH, ECONOMIC ZONE, AND COMPULSORY SETTLEMENT OF DISPUTES. LEARSON SAID U. S. WAS BITTERLY DISAPPOINTED BY SCIENCE TEXT AND THAT U. S. SCIENCE COMMUNITY MAY OPPOSE RATIFICATION. HE SAID SECRETARY KISSINGER HAD PROPOSED REASONABLE COMPROMISE WITH COASTAL STATE CONSENT FOR RESOURCE-ORIENTED RESEARCH WITH COMPULSORY DISPUTE SETTLEMENT. JAGOTA SAID INDIA HAD TWO INTERESTS, PROTECTION OF RESOURCES NAD NATIONAL
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SECURITY, AND THAT RSNT WAS NOT ADEQUATE. HE SAID INDIA

WOULD NOT ACCEPT BINDING THIRD PARTY SETTLEMENT OF DISPUTES FOR ANYTHING IN ECONOMIC ZONE EXCEPT POSSIBLY MARINE POLLUTION. JAGOTA WAS ADAMANT ON POINT SAYING INDIA WOULD ONLY GO TO SETTLEMENT IF IT AGREED TO DO SO IN INDIVIDUAL CASE. FINALLY, JAGOTA SAID ECONOMIC ZONE SHOULD NOT BE HIGH SEAS AND THAT EXISTING COMPROMISE ON RESIDUAL RIGHTS WAS ADEQUATE TO TAKE CARE OF PROBLEM.

2. DEEP SEABED

MOST OF THE TIME DEVOTED TO INTENSIVE DISCUSSION DEEP SEA MINING AND COMMITTEE I MATTERS. JAGOTA PLACED MAIN EMPHASIS ON NEED TO ESTABLISH FUNCTIONAL AND SUCCESSFUL ENTERPRISE. JAGOTA STRESSED THAT WHILE ON PAPER WINTERPRISE APPEARS TO HAVE EDGE OVER PRIVATE COMPANIES, THERE MUST BE A SYSTEM OF GUARANTEES WRITTEN INTO THE TREATY TO CONVERT PAPER CONCESSIONS INTO MEANINGFUL SEABED PRODUCTIVE CAPACITY. MAIN POINT OF JAGOTA'S PRESENTATION WAS A TWO-POINT PROPOSITION WHICH HE INDICATED WOULD BE PUT TO CABINET FOR APPROVAL SHORTLY. FIRST - SYSTEM OF ACCESS IN ARTICLE 22 SHOULD BE FOR A TWENTY YEAR INTERIM PERIOD AT THE END OF WHICH SYSTEM SHOULD BE REVIEWED BY SEABED AUTHORITY. JAGOTA OPEN ON TYPE OF REVIEW BUT HE INDICATED THAT THE REVIEW PROCESS SHOULD "FACILITATE AFFIRMATIVE DECISION". SECOND POINT OF HIS PROPOSAL WAS TO CYCLE OR STAGGER ACCESS SO THAT MINE SITE 1 WOULD BE DEVELOPED BY THE ENTERPRISE AND MINE SITE 2 BY PRIVATE COMPANIES AND SO ON. U.S. DELEGATION STRONGLY RESISTED THIS SECOND POINT AND SUGGESTED IT WOULD BE UNACCEPTABLE TO ALL INDUSTRIALIZED COUNTRIES BECAUSE IT WOULD ARBITRARILY CONTROL ACCESS, AND WOULD TEND TO POLARIZE COMMITTEE I. DELEGATIONS IMPRESSION, HOWEVER, IS THAT DESPITE ITS BEST EFFORTS WITH JAGOTA AND LATER WITH THE FOREIGN SECRETARY, JAGOTA WILL OBTAIN CABINET APPROVAL AND WILL RAISE IT DURING GROUP OF 77 MEETING IN NEW YORK. IN FACT, JAGOTA INDICATED THAT HIS OWN DELEGATION HAD DISCUSSED WHETHER TO ADVISE U.S. DELEGATION OF THIS PROPOSAL AT THIS MEETING BEFORE DISCUSSING IT IN THE GROUP OF 77 AND HAD FINALLY DECIDED TO TELL US ABOUT IT FIRST. JAGOTA INDICATED THAT HE WOULD KEEP AN OPEN MIND AND IF U.S. COULD SHOW HIM ANOTHER APPROACH WHICH WOULD GUARANTEE THAT THE ENTERPRISE WOULD FUNCTION CONFIDENTIAL

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HE WOULD BE RECEPTIVE. HE DID NOT THINK FINANCING FOR THE ENTERPRISE WOULD BE A GREAT PROBLEM RATHER, INDIA'S FEAR IS THAT THE COMPANIES WILL CONSPIRE TO PREVENT THE ENTERPRISE FROM ACQUIRING TECHNOLOGY AND THEREFORE THE COMPANIES WILL HAVE TO BE FORCED TO GIVE CONSTRUCTIVE AND CREATIVE SUPPORT TO THE ENTERPRISE.

3. ON OTHER DEEP SEABED ISSUES, JAGOTA INDICATED THAT WITH

OUR EXPLANATION OF ARTICLE 9 AND PARAGRAPH 21 OF ANNEX I
INDIA WOULD ACCEPT THE PRODUCTION CONTROL SYSTEM ALTHOUGH

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CEQ-01 CG-00 CIAE-00 CIEP-01 COME-00 DODE-00 DOTE-00

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USIA-06 SAL-01 /124 W

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FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC 7128

C O N F I D E N T I A L SECTION 2 OF 2 NEW DELHI 10309

INITIALLY THEY WERE INCLINED TO ACCEPT THE CANADIAN
INTERPRETATION. ON THE BANKING SYSTEM, JAGOTA WAS OF
THE IMPRESSION THAT THE ENTERPRISE COULD ONLY OPERATE IN
RESERVED AREAS. HOWEVER, AFTER LENGTHY EXPLANATION HE
SEEMED SATISFIED THAT THE ENTERPRISE COULD FUNCTION
THROUGHOUT THE AREA AND THIS REMOVED A SUBSTANTIAL DOUBT
ABOUT THE USEFULNESS OF THE BANKING SYSTEM WHICH HE SAID
HE THOUGHT HE COULD SUPPORT. JAGOTA WAS DISTURBED THAT
"DIRECT AND EFFECTIVE CONTROL" HAD BEEN REMOVED FROM THE
TREATY ALTHOUGH U.S. \$3 DELEGATION POINTED OUT THAT THE MAIN
ELEMENTS OF CONTROL WERE CONTAINED IN OTHER ARTICLES.
JAGOTA TENDED TO ACCEPT THIS EXPLANATION AND INDICATED
THAT HE WOULD REVIEW THE SNT WITH MORE CARE AND IF THE U.S.
WAS RIGHT THAT EFFECTIVE CONTROL STILL REMAINED, HE COULD
NOT RAISE ANY ISSUE IN NEW YORK. A POINT THAT EMERGED
FREQUENTLY ON THE INDIAN SIDE WAS THAT INDIA WILL FAVOR A
PRO-DEVELOPMENT APPROACH TO SEABED MINING AND BELIEVES
THE REVISED SNT ALREADY STATES A PRIORITY OBJECTIVE TO BE

DEVELOPMENT-MINDED RATHER THAN TO LIMIT DEVELOPMENT FOR
THE BENEFIT OF LAND-BASED PRODUCERS. ON THE QUESTION
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OF THE TRIBUNAL, JAGOTA INDICATED THAT HE DID NOT FIND
ACCEPTABLE THE IDEA THAT THE POLICY DECISION OF THE
AUTHORITY OR ITS ORGANS COULD BE QUESTIONED IN THE TRIBUNAL.
HE INDICATED THAT IN MATTERS WHERE THE AUTHORITY HAS
DISCRETION ITS DECISION SHOULD BE BEYOND THE REACH OF
JUDICIAL REVIEW. U.S. INDICATED THAT IF ALLEGATIONS OF
"ABUS DE POUVOIR" ARE NOT REVIEWABLE IN THE TRIBUNAL,
WE WOULD HAVE DIFFICULTY AGREEING TO ESTABLISH THE SEABED
AUTHORITY.

4. IN ALL DISCUSSIONS OF COMMITTEE I MATTERS, WE FOUND
JAGOTA TO BE UNUSUALLY MODERATE AND CONSTRUCTIVE - A
MARKED CONTRAST WITH HIS NEW YORK BEHAVIOR IN THE GROUP
OF 77. WE HAVE NO CLEAR EXPLANATION FOR THIS CHANGE, BUT
WE ARE CONVINCED THAT, AT LEAST FOR THE PURPOSE OF OUR
PRESENCE IN DELHI, JAGOTA WISHED TO APPEAR TO HIS COLLEAGUES
TO BE FINDING HARMONIOUS AND AGREEABLE SOLUTIONS TO
COMMITTEE I PROBLEMS. EVEN WHEN OUR VIEWS DIFFERED, HE
MADE A SPECIAL EFFORT TO ELABORATE THE ASPECTS OF THOSE
DIFFERENCES ON WHICH THERE WAS HARMONY. IN A SEPARATE
MEETING WITH THE MINISTER OF MINES AND STEEL WHERE JAGOTA
WAS NOT PRESENT, THE DIRECTOR GENERAL OF THE GEOGRAPHICAL
SURVEY, WHO IS ALSO IN COMMITTEE I, IN REPLY TO A QUESTION
PUT BY THE U.S. DELEGATION AS TO INDIA'S STRONG AND EXTREME
POSITION IN THE GROUP OF 77 IN NEW YORK SAID THAT THE
REVISED SNT WAS AN IMPROVEMENT OVER THE PBE SERIES AND
THEREFORE INDIA WAS NO LONGER PUSHING THE GENEVA SNT BUT
WOULD NEGOTIATE ON THE BASIS OF THE REVISED SNT. WE
POINTED OUT THAT OUR INFORMATION WAS THAT INDIA AT THE
RECENT AALCC MEETING IN KUALA LUMPUR WAS STILL PUSHING THE
GENEVA SNT TO WHICH THE MINISTER OF MINES AND STEEL REPLIED
THAT WE SHOULD LISTEN TO WHAT THE INDIAN DELEGATION IS
TELLING US IN DELHI AND NOT PAY ATTENTION TO SECOND-HAND
REPORTS OF WHAT WAS SAID IN KUALA LUMPUR.

5. TEAM MET WITH FOREIGN SECRETARY MEHTA FOR AN HOUR.
TEAM STRESSED PROBLEMS ON SCIENTIFIC RESEARCH, NECESSITY
OF GOOD COMPULSORY DISPUTE SETTLEMENT SYSTEM, AND PROBLEMS
ON DEEP SEABEDS. MEHTA WAS KNOWLEDGEABLE AND ARGUED FOR
CONSENT FOR ALL RESEARCH CITING SECURITY PROBLEMS AND
DIFFICULTY OF DISTINGUISHING BETWEEN TYPES OF RESEARCH.
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ON DISPUTE SETTLEMENT, HE DID NOT DISAGREE WITH JAGOTA'S
HARD-LINE APPROACH. ON DEEP SEABEDS, HE IS INTERESTED
IN FACTS AND FIGURES ABOUT MINING AND FUTURE PRODUCTION.
HE WAS FAMILIAR WITH JAGOTA PROPOSAL ON CYCLED OR STAGGERED
OPERATIONS AND DID NOT DISCOURAGE JAGOTA.

6. TEAM ALSO MET WITH FOREIGN MINISTER CHAVAN WITH ALMOST
ENTIRE DISCUSSION CENTERED ON ARCHIPIELAGOS. WHILE CHAVAN
STATED INDIA'S INTEREST IN ARCHIPIELAGO STATUS FOR HER
ISLANDS, ENSUING DISCUSSION MADE IT CLEAR THAT HE HAD NOT
BENN COMPLETELY BRIEFED ON ISSUE. HE HAD NOT KNOWN THAT
THERE WERE NAVIGATION PROBLEMS WITH ARCHIPIELAGO REGIME.
TEAM EXPLAINED ALL REASONS FOR U.S. POSITION.SAXBE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW OF THE SEA, MEETING REPORTS
Control Number: n/a
Copy: SINGLE
Draft Date: 14 JUL 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: saccheem
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976NEWDE10309
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760270-1064
From: NEW DELHI
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760759/aaaacadi.tel
Line Count: 237
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION DLOS
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: saccheem
Review Comment: n/a
Review Content Flags:
Review Date: 10 MAY 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <10 MAY 2004 by buchant0>; APPROVED <22 SEP 2004 by saccheem>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CONSULTATION WITH INDIAN OFFICIALS SUMMARY: U. S. LOS TEAM HEADED BY AMBASSADOR LEARSON
TAGS: PLOS, IN, US, (LEARSON, T VINCENT)
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006